

**JOINT MEETING OF THE DELTONA CITY COMMISSION
AND THE DELTONA CHARTER REVIEW COMMITTEE
TUESDAY, MAY 27, 2014**

A Joint Meeting of the Deltona City Commission and the City's Charter Review Committee was held on Monday, May 27, 2014 at the City Hall Commission Chambers, 2345 Providence Blvd. Deltona, Florida.

1. CALL TO ORDER:

The meeting was called to order at 5:30 p.m. by Mayor John Masiarczyk.

2. ROLL CALL:

Deltona City Commission:

Mayor	John Masiarczyk	Present
Vice Mayor	Heidi Herzberg	Present
Commissioner	Webster Barnaby	Present
Commissioner	Zenaida Denizac	Present
Commissioner	Fred Lowry	Present
Commissioner	Chris Nabicht	Present
Commissioner	Nancy Schleicher	Present
City Manager	Dave Denny	Present
City Attorney	Becky Vose	Present
City Clerk	Joyce Raftery	Present

Also Present: Deputy City Manager Dale Baker.

Charter Review Committee:

Chairperson	Jean Armstrong	Present
Vice Chairperson	Michael Kiepert	Present
Voting Member	Michael Kerns	Present (Arrived 5:32 p.m.)
Voting Member	Paula Rossiter	Present
Voting Member	Beverly Spitz	Present (Arrived 5:44 p.m.)
Alternate Member	Carolyn Carbonell	Present
Alternate Member	David Dapore	Present

3. PLEDGE TO THE FLAG:

The City Commission, Charter Review Committee, and staff said the pledge to the flag.

4. BUSINESS:

A. Discussion re: Charter question relating to sanctions against Commissioners for violating the Charter.

1 Mayor Masiarczyk stated the meeting was called because the Commission wanted to go over the
2 one question that was proposed by the Charter Review Committee (CRC) regarding sanctioning
3 Commissioners for violating the City Charter.

4
5 The Commission and the CRC discussed who could file a claim, if the City would be responsible
6 for the Commissioners legal costs, the recommendation by the City Attorney to address the issue
7 by creating an ordinance, the issue of sanctioning coming from the CRC discussion on a strong
8 Mayor form of government, the City Manager's responsibility to run the day-to-day operations
9 and the Commissions responsibility to set policy, who would bring forth the violation and who
10 would sort out the validity of the violation, Commissioners interfering with the role of the City
11 Manager and providing direction or requests to staff, staff feeling obligated to do what is
12 requested by a Commissioner because of who they are, the Commission following the chain of
13 command and there being no consequences if a Commissioner does not, and the Commission not
14 knowing about a violation unless someone comes forward and tells one of them.

15
16 City Attorney Becky Vose stated the first draft of the ordinance only dealt with staff interference
17 and the second draft includes if a Commissioner violates any provision of the City Charter. She
18 stated if a Commissioner took it upon themselves to act on behalf of the Commission without the
19 permission of the Commission this would fall under the new language she provided in the second
20 draft of the ordinance. She stated the sanctions range from a hand slap to asking the Governor to
21 remove the Commissioner from office.

22
23 There was discussion regarding the City Manager dealing with staff more firmly by making it
24 clear that staff does not work for the City Commission, the ordinance being a tool for a political
25 weapon and tie up the Commission with politically motivated violations, the ordinance needing
26 procedures attached to it, what constitutes the burden of proof, the ordinance being too
27 subjective, the City of DeBary and DeLand having similar language in their charter, providing
28 training or mandatory training for new Commissioners and staff as to what their role is, a
29 Commissioner asking a question of staff being perceived as directing staff, the need for a strong
30 City Manager, and to include in the job descriptions of staff, City Manager and Commissioners
31 the total prohibition of accepting direction from a Commissioner.

32
33 Mayor Masiarczyk asked if the ordinance makes any attempt to resolve the CRC's concerns and
34 the majority of the members of the CRC replied it does and that it is a start.

35
36 Mayor Masiarczyk discussed a Commissioner having to bring a violation forward by making a
37 motion during a public meeting, a Commissioner reporting a violation to the City Manager, and
38 his concern regarding who handles the initial violation.

39
40 City Manager Dave Denny stated he liked the idea of training new staff and new elected officials.
41 He stated the way he reads the ordinance the only person that can bring a charge forward is a
42 Commissioner, not the City Manager or the City Attorney and he felt the ordinance could use
43 some revision. He stated that he tells staff if they are asked to do something by a Commissioner
44 to do one of two things, either direct the Commissioner to his office to ask him or once the
45 Commissioner leaves their office to go to the his office to discuss the request. He stated for the

1 most part the Commission would not know if a Commissioner interfered with staff, but he
2 personally does not have an issue bringing forward a violation against a Commissioner if that
3 Commissioner constantly interfered with staff, that he would treat the situation the way he treats
4 staff with progressive discipline and that anyone can file a violation with the Governor.

5
6 City Attorney Vose stated the reason for only a Commissioner bringing forward a violation was
7 because it did not make sense to have the public file a violation, possibly over and over, because
8 that could create a real problem for the Commission, anyone could bring forward a violation to a
9 Commissioner. Also, the ordinance is written that "a charge of violation shall only be brought by
10 motion.." and Charter Officers cannot make a motion. She stated if there were a Commissioner
11 that repeatedly violated the Charter a Charter Officer could mention it to a Commissioner.

12
13 The Commission and the CRC discussed the ordinance being a deterrent to prevent malfeasants
14 from happening, it being like the State ethics statute which allows people to press charges
15 regarding ethics violations, the ordinance being necessary, to add that a violation should be
16 reviewed by either the City Manager or City Attorney before being placed on the agenda, the
17 violation carrying more weight if it comes from the governing body, having the City Attorney
18 double check the ordinance to make sure it is sound and enforceable, the Commissioner being
19 accused of violating the Charter taking legal action to contest the charges, and there being several
20 sanctions being included in the ordinance such as forfeiture of pay for a period of time or not
21 being able to participate in presentations during a meeting.

22
23 City Attorney Vose stated that if the Commission suspended a Commissioner from office for
24 violating the Charter that could result in a lawsuit and the Governor typically suspends the
25 Commissioner for the term of their office. The way the ordinance is written it is up to the
26 Governor to suspend a Commissioner for violation of office and that the ordinance had not been
27 tested through the courts as she created it.

28
29 The Commission discussed what the violation filing process would be and the need for it to be
30 spelled out, having a burden of proof and what that is, if the facts were not stated it would be a
31 preponderance of the evidence, the finding having to be by a supermajority of the Commission, if
32 a violation is committed there are other avenues that individuals can take to get the information
33 to the Commission, having enough facts to bring a violation forward, the accused Commissioner
34 wanting legal representation, the actions of the Commissioner if the violation was unfounded, the
35 violation having to be really egregious to be brought before the Commission, and the City of
36 Debary Mayor being censored.

37
38 **After discussion, the Commission concurred to move forward with the draft ordinance,**
39 **that each Commissioner presents their concerns or suggestions to the City Attorney who**
40 **would then provide a detailed process and that Section 2-381 should not be changed.**

41
42 The Commission and CRC discussed the ordinance being a start, being comfortable with the
43 issue being addressed by ordinance rather than a Charter amendment which is harder to change in
44 the future, whether or not to add language that "any Charter Officer may bring a charge to the
45 attention of the Commission" under the comments portion of a public meeting, placing language

1 in the City Manager's contract to include bringing forward Charter violations to the Commission
2 in a public meeting, the ordinance not prohibiting Charter Officers from bringing Charter
3 violations forward, and the City Manager already having authority to bring forward a violation
4 per the City Charter, Section 7, 2(b), 10.
5

6 **5. CITY MANAGER COMMENTS:**
7

8 City Manager Dave Denny stated that tomorrow is Commission Administrative Assistant Pauline
9 Shattuck's last day of employment and there will be cake and ice cream in the second floor kitchen
10 at 3:00 p.m. He stated also tomorrow, at 6:00 p.m. is the dedication of Engine 62 at Fire Station 62
11 and recognition of the longevity of some of the fireman.
12

13 Mayor Masiarczyk stated he would be meeting with the students who won the essay contest "Mayor
14 of the Day" at 4:30 p.m. on Wednesday, May 28th, but he would be attending the dedication after
15 that.
16

17 Commissioner Nabicht reminded Mayor Masiarczyk that there is a TPO meeting Wednesday, May
18 28th in the morning.
19

20 **6. ADJOURNMENT:**
21

22 There being no further business the meeting adjourned at 6:43 p.m.
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26
27

28 _____
29 Joyce Raftery, City Clerk
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